

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed January 13, 2006. At the time of the Office Action, Claims 70-92 were pending in the Application. Claims 70-92 were rejected. Applicants respectfully request reconsideration and favorable action in this case.

Priority Claims

The Office Action states that Applicants have not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. § 119. However, several of the statements in the Office Action are based on terms that no longer appear in the claims (*i.e.*, “payment key”) or a misinterpretation of the priority claims in the present application. To avoid any confusion, Applicants have amended the Specification to clarify the nature of the priority claims the present application is making, and respectfully submit that such priority claim is proper in light of the current claims.

Section 102 Rejections

Claims 70-92 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,961,593 issued to Gabber (“*Gabber*”). Applicants respectfully traverse these rejections for the reasons stated below.

In order to establish a *prima facie* case of anticipation, all the elements of the claimed invention must be found within a single prior art reference. *Dewey & Almy Chemical Co. v. Mimex*, 124 F.2d 986, 52 USPQ 138 (2d Cir. 1942). Applicants respectfully submit that each and every element of Claims 70-92 is not found within the *Gabber* reference.

Claim 70 recites:

A method, comprising:
establishing for a first user of an electronic network a payment detail associated with financial information, the first user having an actual credit account;
configuring the financial information to include an identification of a financial institution which is different from the first user, to include an identifier for a pseudo credit account, and to include a pseudo expiration date for the pseudo credit account; and
using the payment detail to facilitate through the network a purchase by the first user of something from a

second user, including using the financial information through the network to facilitate payment for the purchase to the second user on behalf of the first user, the second user being different from each of the financial institution and the first user, and the using of the financial information including:

providing the pseudo credit account identifier and pseudo expiration date to the second user, while withholding from the second user information regarding the actual credit account;

communicating the pseudo credit account identifier and pseudo expiration date to the financial institution; and

transmitting payment from the financial institution to the second user on behalf of the first user under the pseudo credit account identifier, while making a charge against the actual credit account in an amount corresponding to the payment.

Applicants submit that *Gabber* fails to teach, suggest, or disclose each of these elements. For example, *Gabber* fails to teach, suggest, or disclose “communicating the pseudo credit account identifier and pseudo expiration date to the financial institution” and “transmitting payment from the financial institution to the second user on behalf of the first user under the pseudo credit account identifier.” Instead, *Gabber* discloses a central proxy system that generates and sends an alias credit card number and expiration date a requesting site. Col. 13, ll. 5-9. The requesting site, upon verifying that the number originates from central proxy system, then accepts the number as valid, “with the understanding that it can collect the money from the central proxy system.” Col. 13, ll. 10-13. *Gabber, however, does not teach, suggest, or disclose how this money is collected.* Even if one were to assume *Gabber* discloses transmitting payment to the second user on behalf of the first user, *Gabber* most certainly does not disclose that payment is transmitted from a financial institution to the second user under the pseudo credit account identifier. Instead, *Gabber* merely discloses that the requesting site accepts an alias credit card number knowing it can collect money from the central proxy system at a later date. Col. 13, ll. 10-13. As such, the Examiner’s assertions that *Gabber* teaches transmitting payment from a financial institution to a second user on behalf of a first user under the pseudo credit account identifier (Office Action, p. 6) are clearly incorrect. For at least this reason, Applicants submit that the rejection of Claim 70 is improper and respectfully request that the rejection be withdrawn.

Similar to Claim 70, Claim 87 recites “transmitting of payment on behalf of the first

entity from the financial institution to the second entity under the pseudo credit account identifier.” Therefore, Applicants submit that Claim 87 is allowable, for example, for reasons similar to those discussed above with regard to Claim 70. As such, Applicants respectfully request that the rejection of Claim 87 be withdrawn.

Claims 71-75, 77, 78, 80-86, 88, 90, and 91 depend, directly or indirectly, from Claims 70 and 87. Therefore, Applicants submit that 71-75, 77, 78, 80-86, 88, 90, and 91 are allowable, for example, for reasons similar to those discussed above with regard to Claims 70 and 87. As such, Applicants submit that the rejections of Claims 71-75, 77, 78, 80-86, 88, 90, and 91 are improper. Applicants respectfully request that the rejections of Claims 71-75, 77, 78, 80-86, 88, 90, and 91 be withdrawn.

Section 103 Rejections

Claims 76, 79, 89, and 92 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gabber* and in further view of Official Notice. Claims 81-86 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gabber* and in further view of U.S. Patent No. 6,006,200 issued to Boies et al. (“*Boies*”). Applicants respectfully traverse these rejections for the reasons stated below.

Claims 76, 79, 81-86, 89, and 92 depend from Claims 70 and 87. Therefore, Applicants submit that Claims 76, 79, 81-86, 89, and 92 are allowable, for example, for reasons similar to those discussed above with regard to Claims 70 and 87. As such, Applicants respectfully request that the rejections of Claims 76, 79, 81-86, 89, and 92 be withdrawn.

Furthermore, Applicants traverse the Examiner’s taking of Official Notice. Although the Office Action states that Applicants have not “create[d] a reasonable doubt regarding the circumstances justifying the Official Notice,” this is not the standard for challenging a taking of Official Notice. Applicants must merely point out the supposed errors in the Examiner’s action. *See* MPEP § 2144.04(C). In the present case the Office Action has failed to explicitly state for the basis for the Official Notice, including specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge. *See* MPEP § 2144.04(B). Instead, the Office Action merely presents a general conclusion concerning what is “well known in the art of e-commerce.” Office Action, p. 5. As such, Applicants have not been presented with the explicit basis on which the Examiner

regards the matter as subject to Official Notice. The Office Action's attempt to shift the burden to Applicants cannot change this fact. Applicants also note that the Office Action's assertion of Official Notice is not admitted prior art, as the Examiner failed to clearly indicate in the Office Action that the common knowledge or well-known in the art statement is taken to be admitted prior art. *See* MPEP § 2144.04(C).

Should the Examiner continue to maintain this rejection, to the extent the Examiner relies upon "common knowledge," "well known" principles, or "official notice" to establish this rejection, Applicants request that the Examiner cite a reference as documentary evidence in support of this position or provide an affidavit in accordance with M.P.E.P. § 2144.03 and 37 C.F.R. § 1.104(d)(2).

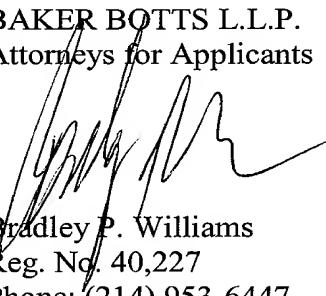
CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicants respectfully request full allowance of all pending Claims. If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

Applicants believe no fee is due. However, should there be a fee discrepancy, the Commissioner is hereby authorized to charge any required fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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